

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND**

STEPHEN DEL SESTO, AS RECEIVER AND :
ADMINISTRATOR OF THE ST. JOSEPH :
HEALTH SERVICES OF RHODE ISLAND :
RETIREMENT PLAN; GAIL J. MAJOR; :
NANCY ZOMPA; RALPH BRYDEN; :
DOROTHY WILLNER; CAROLL SHORT; :
DONNA BOUTELLE; and EUGENIA :
LEVESQUE, :

Plaintiffs :

v. :

C.A. NO.: 1:18-CV-00328

PROSPECT CHARTERCARE, LLC; :
CHARTERCARE COMMUNITY BOARD; ST. :
JOSEPH HEALTH SERVICES OF RHODE :
ISLAND; PROSPECT CHARTERCARE :
SJHSRI, LLC; PROSPECT CHARTERCARE :
RWMC, LLC; PROSPECT EAST HOLDINGS, :
INC.; PROSPECT MEDICAL HOLDINGS, :
INC.; ROGER WILLIAMS HOSPITAL; :
CHARTERCARE FOUNDATION; THE RHODE :
ISLAND COMMUNITY FOUNDATION; :
ROMAN CATHOLIC BISHOP OF :
PROVIDENCE; DIOCESAN :
ADMINISTRATION CORPORATION; :
DIOCESAN SERVICE CORPORATION; and :
THE ANGELL PENSION GROUP, INC., :

Defendants. :

**JOINT MOTION BY PLAINTIFFS AND DEFENDANT CHARTERCARE
FOUNDATION TO STAY CHARTERCARE FOUNDATION'S DEADLINE TO
ANSWER OR OTHERWISE RESPOND TO AMENDED COMPLAINT, PENDING
JUDICIAL APPROVAL OF PROPOSED SETTLEMENT**

Plaintiffs Stephen Del Sesto (as Receiver and Administrator of the St. Joseph Health
Services of Rhode Island Retirement Plan) (the "Receiver"), and Gail J. Major, Nancy Zompa,
Ralph Bryden, Dorothy Willner, Caroll Short, Donna Boutelle, and Eugenia Levesque,

individually as named plaintiffs (“Named Plaintiffs”) and on behalf of all class members¹ as defined herein (collectively “Plaintiffs”), and Defendant CharterCARE Foundation (“CCF”) hereby jointly move to stay CCF’s deadline to answer or otherwise respond to Plaintiffs’ Amended Complaint pending the disposition of the proposed judicial approvals of their recently executed proposed settlement agreement (the “Proposed Settlement”) involving CCF.²

The new Proposed Settlement is contingent upon three layers of judicial approval. First, in the Rhode Island Superior Court case captioned *St. Joseph Health Services of Rhode Island, Inc. v. St. Josephs Health Services of Rhode Island Retirement Plan*, PC-2017-3856 (the “Receivership Proceedings”), the Receiver will be seeking an order: (i) approving the Proposed Settlement as in the best interests of the Receivership Estate, the Plan, and the Plan participants; (ii) authorizing and directing the Receiver to proceed with the Proposed Settlement; and (iii) granting such further relief as the Superior Court may determine to be reasonable and necessary under the circumstances. That process already has begun, as the Receiver filed his Petition for Settlement Instructions on November 29, 2018 seeking such relief. Exhibit 1 (Petition for Settlement Instructions).³ The Superior Court has scheduled the hearing on the Petition for Settlement Instructions for December 14, 2018.

¹ Contingent upon the Court certifying the Settlement Class and appointing them Class Representatives.

² Defendants Roger Williams Hospital (“RWH”), St. Joseph Health Services of Rhode Island (“SJHSRI”), and CharterCARE Community Board (“CCCB”) (collectively, the “Heritage Hospital Defendants”) are also parties to the Proposed Settlement, and they assent to the instant motion. The Heritage Hospital Defendants are parties to the new Proposed Settlement so that CCF may resolve certain claims arising from CCCB’s proposed transfer to the Receiver of CCCB’s purported rights and interest in CCF, as provided for in a prior settlement agreement executed between the Plaintiffs and the Heritage Hospital Defendants. (See Dkt. # 63).

³ The Petition for Settlement Instructions is attached hereto as Exhibit 1, without exhibits to avoid unnecessarily burdening this record.

Second, if the Superior Court grants that Petition for Settlement Instructions allowing the settlement in the Receivership Proceedings, then Plaintiffs and CCF will jointly move for settlement approval with this Court.

Third, if this Court approves the Proposed Settlement, then Plaintiffs and CCF will file in the Rhode Island Superior Court case captioned *In re: CharterCARE Health Partners Foundation et al.*, C.A. No. KM-2015-0035 (hereinafter, the “2015 *Cy Pres* Action”) an Amended *Cy Pres* Petition seeking judicial approval of a payment of \$4,500,000 (including \$3,900,000 of CCF’s funds) by CCF to the Receiver, and entry of a final judgment thereon (hereinafter, the “*Cy Pres* Final Judgment”). (Petition for Settlement Instructions at 2-3).⁴

Plaintiffs and CCF anticipate that the process of seeking all three layers of judicial approvals will take several months. If all three layers of judicial approvals are obtained and the Proposed Settlement is carried out, then, as provided in the Proposed Settlement, Plaintiffs and CCF will stipulate to, or jointly move for, the dismissal of Plaintiffs’ claims against CCF. Under current deadlines, CCF must answer or otherwise respond to the Amended Complaint by December 4, 2018. Neither the Rhode Island Superior Court nor this Court will have sufficient time to consider the Proposed Settlement before that December 4, 2018 deadline.

In view of all the foregoing, and in the interests of judicial economy and efficiency, Plaintiffs and CCF now jointly move that the Court issue an Order providing that CCF’s deadline to answer or otherwise respond to Plaintiffs’ Amended Complaint is enlarged until thirty (30) days after the latest of: (a) the Superior Court in the Receivership Proceeding refuses to approve the Proposed Settlement, (b) this Court refuses to approve the Proposed Settlement, or (c) the

⁴ It is anticipated that the total \$4,500,000 payment by CCF to the Receiver will include \$600,000 funded by CCF’s liability insurer, RSUI Indemnity Company (“RSUI”).

Superior Court in the 2015 *Cy Pres* Action (including after an appeal to the Rhode Island Supreme Court) refuses to enter the *Cy Pres* Final Judgment.

Defendants RWH, SJHSRI, and CCCB assent to this motion.

Pursuant to LR Cv 7(c), no oral argument is requested unless the instant motion is opposed.

PLAINTIFFS,

CHARTERCARE FOUNDATION,

By their attorneys,

By its attorneys,

/s/ Stephen P. Sheehan

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By their attorneys,

/s/ Robert D. Fine

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Dated: November 30, 2018

CERTIFICATE OF SERVICE

I hereby certify that on this 30th day of November, 2018, I have caused this document to be filed with the Court via the ECF filing system. As such, this document will be electronically sent to the registered participants identified on the Notice of Electronic Filing.

s/ Andrew R. Dennington

Andrew R. Dennington